IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04/04/2003

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THE HONOURABLE MR. JUSTICE P.D.DINAKARAN

W.P.No.4928 of 1998

P.Rajendran .. Petitioner

-Vs-

1. The State of Tamil Nadu
rep. By Administration & Water
Supply Department, Fort St, George
Chennai-600 009.

2. The Commissioner
Salem City Municipal Corporation
Salem-1.

3. The Commissioner of Municipal
Administration, Chepauk, Chennai-5. .. Respondents

PRAYER: Petitions under Article 226 of the Constitution of India for issue of a writ of Certiorarified Mandamus as stated therein.

For Petitioner : Ms.Geetha Priya

For Respondents : Mr.M.S.Palanisamy
Addl. Government Pleader
for first respondent
Mr.G.Sankaran
for respondents 2 & 3
:ORDER

The petitioner, who was working as a Wireman under the Salem Municipality, made a request to promote him as Technical Assistant on the basis of his educational qualification, as required for the post of Technical Assistant under the Tamil Nadu Municipal Corporations Engineer and Water Supply Sub Ordinate Service Rules, 1996, which, admittedly, is applicable to the servants in all the Municipal Corporations.

2. It is not in dispute that when the petitioner joined service as Wireman in the Salem Municipality the next avenue of promotion was to the post

of Testing Assistant, but after the formation of Salem City Municipal Corporation, the services of the employees of the Corporation are governed under the provisions of the Municipal Corporation Service Rules read with the Tamil Nadu Municipal Corporations Engineer and Water Supply Sub Ordinate Service Rules, 1996. The category of the employees working in the Municipal Corporations Engineer and Water Supply Sub Ordinate Services were categorised as follows:

"Class: III
Category 1 .. Junior Engineer
Category 2 .. Technical Assistant
Category 3 .. Skilled Assistant (Grade-I)
Category 4 .. Skilled Assistant (Grade-II)"

Accordingly, the Wireman was equivalent to the post of Skilled Assistant (Grade-II) and the next avenue of promotion is Skilled Assistant (Grade-I), then Technical Assistant and then Junior Engineer. It is, therefore, clear that the post of Testing Assistant found no place in the Tamil Nadu Municipal Corporations Engineer and Water Supply Sub Ordinate Service Rules, 1996.

3. It is only under such circumstances, the request of the petitioner to promote him as Technical Assistant was rejected by the proceedings of the third respondent dated 19.9.1997 and the proceedings of the second respondent dated 31.12.1997. Aggrieved by which, the petitioner had preferred the above writ petition for issue of a writ of Certiorarified Mandamus to call for the records of the third respondent dated 19.9.1997 and that of the second respondent dated 31.12.1997, quash the same, and to direct the respondents to promote the petitioner to the post of Technical Assistant in the Salem City Municipal Corporation.

4. The only contention of learned counsel for the petitioner is that the post of Testing Assistant is equivalent to that of the Technical Assistant.

5. In my considered opinion, there is no provision under the Tamil Nadu Municipal Corporations Engineer and Water Supply Sub Ordinate Service Rules, 1996 equating the post of Testing Assistant to the post of Technical Assistant. On the other hand, as already mentioned above, there is an intermediate post, namely Skilled Assistant (Grade-I), between the Skilled Assistant (Grade-II)-the feeder post and the Technical Assistant-the promotion post. This misreading of the Tamil Nadu Municipal Corporations Engineer and Water Supply Sub Ordinate Service Rules, 1996 by the petitioner cannot be appreciated in order to comply with his request for promotion to the post of Technical Assistant. The writ petition fails and therefore, the same is dismissed. No costs.

Index : Yes
Internet : Yes

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To:

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